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To: EAP -- PIA Suzanne Butcher

From.: Cochair, Nuclear Issues Work Group, Paul Seligman, DOE, DAS, Health Studies and Al Stayman, DOI, Office of Insular Affairs

Subject: Terms of Reference for the Energy and Interior Nuclear Issues Work Group as to Scope of Work and Timelines for USG Positions Prior to Negotiations with the RMI in October 1999

The following is a draft of the proposed terms of reference for Energy and Interior Working Group positions/continuing involvement, scope of work envisioned and timelines for positions needed on nuclear related issues in the Republic of the Marshall Islands (RMI) in the years approaching the end of the Compact of Free Association and Post 2001.

MISSION OF THE WORKING GROUP:

The primary mission of the Energy and Interior Nuclear Issues Working Group is to examine 7 broad classes on nuclear related issues and to devise a scope of work and timeline to develop a set of positions and recommendations that will place the USG in a position to be ready for negotiations with the RMI in October 1999 and to address USG posture on these issues Post 2001. The Energy and Interior Nuclear Issues Working Group will investigate the role that the Government of the RMI will or should play in the post 2001 era in supporting the medical care needs, environmental monitoring, dose assessment, resettlement/remediation, Nuclear Claims Tribunal compensation, RMI initiatives in nuclear waste and long term plans to deal with contaminated northern islands in atolls where such islands cannot be used.

FRAMEWORK FOR ANALYSIS:

A. Background:

The Compact of Free Association, beginning with the RMI in 1996, calls for a number of roles for Departments of Interior and Energy that are primarily funded through Interior appropriations. Energy is funded with Defense Appropriations dollars earmarked for medical surveillance and care for the surviving populations of Rongelap and Utrik who were acutely exposed to fallout from Test Bravo, a nuclear weapons test conducted by the USG in 1954. In addition, Energy is to provide environmental monitoring and dose assessment support to facilitate resettlement for the four most effected atolls of Bikini, Eniwetok, Rongelap and Utrik. Interior oversees USG funding appropriated for: financial assistance programs; resettlement initiatives; community support and initiatives, annual execution by the RMI of the 177 Health Care Program for the four effected atolls. Energy and Interior work with RMI to help them achieve the self-sufficiency that is envisioned in the Compact and to help effect those changes needed to reach these goals.

On the political side, the Government of the Republic of the Marshall Islands wants to put

together enough evidence to present a case before the U.S. Congress that there has been "Changed Circumstance" that would indicate larger populations were exposed, should be part of ongoing medical care, environmental monitoring and resettlement efforts, and that extensive additional funding is needed to include these populations in such coverage. The USG believes that such evidence is not convincing and that the RMI is not likely to prove that the Agreement is "manifestly inadequate". However, the RMI may present there case before the U.S. Congress at any time prior to expiration of the Compact. There is indication that they desire to do this in 1997, if possible.

The "Changed Circumstances" clause in Article IX of the Compact Agreement states:

"If loss or damage to property and person of the citizens of the Marshall Islands resulting from the Nuclear Testing Program, arise or is discovered after the effective date of this Agreement, and such injuries were not and could not reasonably have been identified as of the effective date of this Agreement, and if such injuries render the provisions of this Agreement manifestly inadequate, the Government of the Marshall Islands may request that the Government of the Unites States provide for such injuries by submitting such a request to the Congress of the United States for its consideration. It is understood that this Article does not commit this Congress of the United States to authorize and appropriate funds."

The task at hand is to develop USG positions that partner with the RMI in developing long term resolution of nuclear related issues while at the same time encouraging them to develop the infrastructure, the educational mechanisms and opportunities, the personal capabilities, and local atoll support mechanisms that will allow the RMI and the local atoll communities to develop their own plans and goals to achieve the independence envisioned in the language of the Compact.

b. Framework For Analysis

For its analysis, the Energy and Interior Nuclear Issues Working Group should begin its study by addressing issues that are aligned in seven general areas. In these areas, has the USG been doing those things that fulfill the provisions of the Compact? Can new initiatives be conceived and executed that will assist in moving the RMI into a better position of self-reliance by the end of the Compact? Can some of these initiatives be achieved prior to the end of the Compact? If not, what might need to be done in the years after the end of the Compact to ensure that such objectives are ultimately met? What will the framework be for these nuclear issues after the year 2001? Is there a need for some kind of new agreement that will lay out objectives for efforts and partnerships after the year 2001? What will be the projected USG role in these initiatives after the year 2001? How can new programs envisioned be integrated, where possible, to achieve maximum efficiency of USG dollars invested in these initiatives?

In its analysis of what the USG envisions is the responsible way to proceed, will Congressional support and appropriations likely follow? How can the USG help RMI to achieve realistic goals and monetary approaches that are convincing and compelling enough to

warrant further expenditure of USG dollars. What kind of master plan can be developed that will present this kind of convincing argument and lay out needed support. It is envisioned that the work of the Energy and Interior Nuclear Issues Working Group will achieve such a plan by addressing and resolving positions for the following seven broad issue areas:

Medical Delivery

---Redesign of the DOE Medical Care Program for the Rongelap and Utirik populations exposed to the significant acute fallout from Test BRAVO in 1954.

---Medical care delivery process that will achieve more expenditure of medical program dollars on real medicine and reduce the cost of logistics and associated costs.

---Training initiatives that will put in place competent Marshallese personnel who can administer and deal with technical issues related to medical care delivery.

---Change in the DOE Medical Program after the year 2001 with a continuing reduction in the number of surviving members in the Rongelap and Utirik population.

---Eligibility criteria changes needed in the current 177 Health Care Program (HCP).

---Post 2001, the potential for an integrated health care delivery program that collapses the 177 HCP into a overall RMI health care program.

---Possible USG role and partnering needed in the Post 2001 RMI health care program.

---A strategy that provides Congress with a health care plan that will achieve the goals envisioned and will enhance the probability of Congressional funding.

Environmental Monitoring

---Appropriate balance between environmental monitoring and prospective population dose assessment and individual dose assessment using whole body counting and urine bioassay techniques.

---Agreement on legitimate land usage fee in areas where DOE's environmental monitoring and agricultural activities need to continue.

Dose Assessment

---Proper coverage of whole body counting and urine bioassay for Enewetak to ensure the population remains in its current stable state.

---Level of support needed by Bikini and Rongelap for whole body counting and urine bioassay as they begin to resettle

---Training needed for local Marshallese individuals to perform these roles, thus developing their own self-sufficiency.

---Role of the IAEA in such activities, particularly at Bikini.

---Training needed and placement of competent Marshallese personnel who can administer and deal with technical issues related to environmental dose assessment and individual dose assessment.

---Strategies to effectively communicate radiation health risk and help to alleviate societal concerns that radiation received in the Marshalls has produced genetic effects on their children.

Resettlement/Remediation

---Potential role of the USG and its expert contractors in remediation of environmental contaminants and clean up of contaminated soils in areas being readied for habitation (village areas).

---USG and RMI joint efforts needed to ensure that potassium fertilizer is applied to those vegetation areas that are to be used to produce local food needed by the resettling populations.

---Mechanisms to ensure compliance with need to apply fertilizer and to ensure that imported foods continue to be provided in quantities sufficient to keep environmental uptake of radionuclides at recommended population levels.

Nuclear Waste Storage

---USG posture and assurances needed from the RMI to permit entry and storage of nuclear waste from Taiwan, if RMI proceeds with this initiative.

Northern Atoll Islands Cleanup

---USG position that the Compact provides all settlement by establishing local atoll trust funds for cleanup as the local atoll communities decide.

---USG possible assistance in mitigation strategies/remediation processes that could result in reductions in environmental radionuclides and their uptake in local foods/plants.

Nuclear Claims Tribunal/Compensation

---Comparison of compensation in downwinder populations in the U.S. versus the RMI's compensation process.

---Examination of evidence for a USG position that would recommend that no additional atolls need to be added to those currently compensated.

TIMELINES:

The following timelines are applicable to the study:

Medical Delivery Timelines

---May 9, 1997: Publish a draft statement of work in the Federal Register that defines DOE needs in redesigning the medical care delivery for the Rongelap and Utirik exposed.

---June 11, 1997: Hold a Public Meeting with RMI attendees planned as well as all interested potential contractors, to discuss the intended scope, to illicit inputs on how better to request medical services envisioned, and to give the opportunity for comments and oral presentations, if desired.

---July 11, 1997: Close the period of active input and comments on the medical delivery statement of work.

---July 16 - August 6, 1997: Resolve and respond to comments on the statement of work.

---July 1997: Department of State challenges RMI as to the progress on efforts to redefine eligibility criteria for the 177 Health Care Program.

---August 13, 1997: Publish a final statement of work in the Federal Register.

---August 14 - September 30, 1997: Period permitted for applicants response to the statement of work.

---October 1, 1997: Convene an expert review panel to review applicant proposals.

---October 1 - November 21, 1997: Period for expert review panel to rank and provide recommended awardee

---November 26, 1997: DAS, Office of Health, DOE selects awardee

---November 27 - December 31, 1997: DOE Ops Office to Implement the Cooperative Agreement.

---January 1, 1998: Awardee begins 90 day transition with current DOE contractor.

---April-May, 1998: Awardee assumes responsibility for medical care delivery of the Rongelap and Utrik exposed population.

---July 1998: New DOE awardee provides plan for training and education of Marshallese personnel who can help administer and deal with technical medical care delivery issues.

---September 1998: DOE medical care contractor provide input to DOE on how to better integrate with the 177 Health Care Program and provide recommendations for Post 2001

---January, 1999: DOE/DOI to develop a joint strategy for the U.S. Congress that provides a recommended health care plan for Post 2001, recommended mechanisms to achieve joint RMI/USG goals and a estimate of funding needs to implement Post 2001 envisioned programs.

---April, 1999: DOE/DOE develop a series of position papers for use at time of opening of formal negotiations with RMI in October 1999.

Environmental Monitoring Timelines

---May, 1997: Convene separate meetings with the Bikini and Rongelap leadership in conjunction with Congressional hearings to outline environmental monitoring needed both before resettlement and in conjunction with resettlement. Request commitments to provide as much of this as possible out of current resettlement planning and funded by the appropriate trust funds.

---DOE/DOI begin to review what constitutes legitimate land usage fees in areas where environmental monitoring and agricultural studies need to continue.

---September, 1997: Develop a strategy for USG discussion and eventual presentation to RMI and the Bikini and Rongelap leadership as to options and proposals for USG assistance.

---November, 1997: DOE/DOI and LLNL hold town meetings with Bikini and Rongelap leaders to discuss these strategies and discuss the various options and develop recommendations as to how to best provide needed environmental monitoring especially as populations begin to resettle.

---January, 1998: DOE/DOI develop a position paper on what constitutes a legitimate land usage fee for environmental monitoring and agricultural study USG assets.

---April, 1998: DOE/DOI develop position papers on the best procedures to recommend and place into consideration at the Compact negotiations scheduled to begin in October 1999.

Dose Assessment Timelines

---May, 1997: Convene separate meetings with the Bikini and Rongelap leadership in conjunction with Congressional hearings to outline dose assessment needs both as resettlement construction is in process and later when populations have returned to their residually contaminated islands. Request commitments to provide as much of this as possible out of current resettlement planning and funded by the appropriate trust funds.

---September, 1997: Develop a strategy for USG discussion and eventual presentation to RMI and the Bikini and Rongelap leadership as to options and proposals for USG assistance.

--October, 1997: State formally arrange a USG meeting with IAEA officials to discuss their planned roles in Marshall Islands dose assessment processes

---November, 1997: DOE/DOI and LLNL hold town meetings with Bikini and Rongelap leaders to discuss these strategies and discuss the various options and develop recommendations as to how to best provide needed dose assessment processes and develop the needed infrastructure and training to ensure working or resettling populations are adequately assessed for dose potential from working or living in residually contaminated resettlement environments.

---May, 1998: DOE/DOI develop position papers on the best procedures to recommend and place into consideration at the Compact negotiations scheduled to begin in October 1999. Include in these papers, the role IAEA will play in both pre and post 2001 activities in the Marshall Islands.

Resettlement/Remediation Timelines

---May, 1997: Convene separate meetings with the Bikini and Rongelap leadership in conjunction with Congressional hearings to ascertain if there is any local atoll community interest in having the USG or DOE/LLNL/BNL play a role in their resettlement strategies and what if any support and by what timeframe such support would be needed. Request information as to how each community plans to achieve planned resettlement/remediation activities and how they plan to fund these by the appropriate trust funds.

---September, 1997: Develop a strategy for USG discussion and eventual presentation to RMI and the Bikini and Rongelap leadership as to options and proposals for USG assistance, for those areas where such interest has earlier been identified.

---November, 1997: DOE/DOI and LLNL hold town meetings with Bikini and Rongelap leaders to discuss how best to ensure the effective and continuing application of potassium fertilizer at the needed intervals.

---June, 1998: DOE/DOI develop position papers on the best procedures that will ensure compliance with agreed procedures that involve joint RMI/USG partnerships and recommend and place into consideration at the Compact negotiations scheduled to begin in October 1999.

Nuclear Waste Storage Timelines

---May 1997: Department of State hold a joint RMI/USG IAG to discuss RMI plans for potential storage of Taiwan low-level nuclear waste in the Marshall Islands. Discuss the pathway envisioned to reach this objective.

---June 1997: USG begin to conduct a barrier analysis to layout and discuss how these might be overcome or what would be real show stoppers.

---October 1997: DOE/DOI prepare position papers on how USG should respond if and when such waste storage appears to be close to becoming a reality.

Northern Atoll Cleanup Timelines

---June 1997: DOE/DOI convene working group to discuss how to best present the case that the Compact has provided all settlement for cleanup of local atolls vis a vis the local atoll resettlement trust funds.

---October 1997: Hold a Department of State Nuclear Issues Working Group to review preliminary positions on how the USG can most effectively address this issue when it arises

---January 1998: DOE/DOI prepare a position paper on how USG will address this issue formally with RMI.

Nuclear Claims Tribunal/Compensation Timelines

---April, 1997: DOE/DOI prepare a comparison paper of what thyroid doses and external doses were received by the populations of Ailuk, Likiep and Wotho and how those doses compare to the downwinder populations from the Hanford site in the state of Washington.

---June 1997: DOE/DOI prepare a position paper on whether there is evidence that other atolls than the four most effected ones of Bikini, Eniwetok, Rongelap and Utirik might also need to be added to those considered exposed.

---August 1998: DOE/DOI review, if a report has been released, the incidence and dose data assembled by the Center of Disease Control from the Dose Response Epidemiology Study that has been underway.

---September 1998: DOE/DOI prepare a position paper on whether USG posture on atolls that need to be included are still the same or whether there is merit that others should be added.

CAVEATS:

1.) The study should be done with the help and assistance of other interested federal agencies (HHS/PHS/HRSA/DOA/DOD/USAKA) whose inputs and perceptions are considered valuable in ensuring their roles and strategies are woven into the fabric of developed position papers.

2.) The study should examine the language of the Compact and weight that against the history of U.S. Congressional commitment and appropriations as well as staffers views of what is realistically possible in these times of budgetary constraints.

3.) The study should provide a strategy and a proposed health plan that deals with the three levels of health care in the Marshall Islands, DOE Medical Surveillance for the Rongelap and Utirik exposed population, 177 Health Care Program for Bikini, Enewetak, Rongelap and Utirik, and Ministry of Health Care Program for all Marshallese. These strategies should scope out a path forward that should deal with how these programs will change with time, especially post 2001.

4.) The strategies should ensure that USG interests are maintained as to the effectiveness of procedures and infrastructure set up by the Marshallese to monitor the environment and to ensure the local food uptake is evaluated as to its impact on population and individual dose.

PARTICIPANTS:

The following agencies will be participants or will be consulted during this study and will either assign as a minimum one individual at the working group level to act as a point of contact or designate an individual who can be consulted on issues and comment on draft and proposal reviews.

STATE EAP/PIA

ENERGY/OFFICE OF INTERNATIONAL HEALTH STUDIES (COCHAIR)

INTERIOR, OFFICE OF INSULAR AFFAIRS (COCHAIR)

OSD/ISA/AP

HHS/PHS

HHS/HRSA

AMERICAN EMBASSY, MAJURO

USAKA/KMR